

**STAFF MEETING MINUTES
LANCASTER COUNTY BOARD OF COMMISSIONERS
COUNTY-CITY BUILDING
ROOM 113
THURSDAY, MAY 15, 2003
8:15 A.M.**

Commissioners Present: Bernie Heier, Chair
Ray Stevens, Vice Chair
Larry Hudkins
Bob Workman

Commissioners Absent: Deb Schorr

Others Present: Kerry Eagan, Chief Administrative Officer
Gwen Thorpe, Deputy Chief Administrative Officer
Bruce Medcalf, County Clerk
Ann Taylor, County Clerk's Office

The Chair opened the meeting at 8:17 a.m.

AGENDA ITEM

1 APPROVAL OF STAFF MEETING MINUTES OF THURSDAY, MAY 8, 2003

MOTION: Workman moved and Stevens seconded approval of the Staff Meeting minutes of May 8, 2003. Hudkins, Stevens, Workman and Heier voted aye. Motion carried.

2 ADDITIONS TO THE AGENDA

None were stated.

3 COMMISSIONERS MEETING REPORTS

A. Information Services Policy Committee - Stevens

Stevens said Information Services will produce color photographs of properties that will come before the Board of Equalization (property valuation protests), at a cost of \$0.50 each.

Bruce Medcalf, County Clerk, said a decision has been made to use black and white photographs instead, at a cost of \$0.20 each.

B. Hometown Security Study Committee - Hudkins

Hudkins said 911/Emergency Communications has indicated a need for updated equipment and additional personnel and said the committee voted to recommend both a \$0.50 surcharge on land lines and a bond issue.

C. Parks & Recreation Advisory Board - Schorr

No report.

D. Region V Governing Board - Heier

No report.

E. Public Building Commission - Hudkins, Workman

Workman said approval was given to equipment for the security desk in the Justice and Law Enforcement Center and a cooling system for 911/Emergency Communications Center.

Hudkins said there was also a decision to offer paid parking in the new parking facility.

F. Board of Health - Hudkins

Hudkins said air quality reports were presented.

4 LEGISLATIVE UPDATE - Gordon Kissel, Legislative Consultant; Amy Prenda, Director of Legal Research and Analysis for Kissel/E&S Associates

Gordon Kissel, Legislative Consultant, gave a legislative update (Exhibit A).

Hudkins noted that the Nebraska Legislature voted to close the Lincoln Correctional Center by October 2004 and asked whether there is a statement on the impact to Lancaster County.

Kissel said the Judiciary Committee will conduct an Interim Study on what the impacts will be. He added that Governor Johanns is adamantly opposed to the proposal.

**5 LANCASTER COUNTY VETERAN SERVICES COMMITTEE
APPOINTMENT - Gary Chalupa, Veterans Service Officer**

Gary Chalupa, Veterans Service Officer, said there is a vacancy on the Lancaster County Veterans Services Committee and the veterans organizations have submitted two applications (Exhibits B & C). He said the committee has reviewed both applications and recommends appointment of Gerald "Jerry" R. Chrastil.

The Board concurred with the recommendation.

Chalupa will schedule the appointment on a Board of Commissioners Meeting agenda once the applicant has secured a public official bond.

6 WILDROSE LANE UPDATE - Don Thomas, County Engineer; Allan Abbott, City Public Works/Utilities Director; Roger Figard, City Engineer; Marvin Krout, Planning Director; Richard Grundman and Larry Younger, Kawasaki Motors Manufacturing Corporation; Susan Grabler and Beth Ryan, Union Pacific Railroad

Allan Abbott, City Public Works/Utilities Director, said the Union Pacific Railroad has reversed its position and says it cannot support a crossing at Fletcher Avenue (Exhibit D). He said the request for an amendment to the Comprehensive Plan will be withdrawn because "the solution to the problem has been taken away".

Roger Figard, City Engineer, distributed copies of correspondence (Exhibit E) relating to the Wildrose Lane issue.

Hudkins disagreed with Abbott's assertion that Union Pacific has reversed its position, referring to a memorandum which outlined discussion at a City, County, Kawasaki and Union Pacific Railroad meeting held March 19, 2002 (see Exhibit E). He said representatives of Union Pacific stated at that time that the railroad had a policy against crossings on curves, had no plans to abandon that line and wanted to keep the crossing as far north as possible.

Figard said "I will go on record saying that that concern they voiced was a concern and a preference, it wasn't a written "we will not support it", so I still was operating under the scenario that when we finished the study and were able to present all the facts, that for the greater good, a decision might be made that that's the right thing to do." He said "We have a very formal, open and public process for all of our public planning" and expressed concern that the Board has indicated its position on the matter before it gets to the Planning Commission.

Heier said he believes the Board's letter to the City-County Common regarding the status of Wildrose Lane in the Lincoln and Lancaster County 2025 Comprehensive Plan was appropriate (Exhibit F).

Figard said the Comprehensive Plan shows Tier I growth in the area north of Kawasaki Motors and said the "push" is to have infrastructure and growth in place within twelve years. He said that will require extension of the arterials and a long-term transportation system and said "we believed that the appropriate way to do that was to extend Fletcher (Avenue) from the urban area out and extend it over to 31st Street and make that connection." Figard said this was based on an assumption that Union Pacific would support one at-grade crossing, noting Kawasaki preferred to keep both to improve access to its facility. He said "We made that recommendation of extending Fletcher (Avenue), agreeing with Kawasaki to extend Fletcher (Avenue) to the east under the assumption we'd be able to extend Fletcher (Avenue) to the west." Figard said he wants to go on record and wants it clearly stated in the minutes that "the Director of Public Works, Allan Abbott, and Don (County Engineer) can speak for himself, and myself as City Engineer cannot recommend using Wildrose Lane as an extension of Fletcher (Avenue) west, for some of the very same reasons that you pointed out in your letter to us, the conflicts with school buses, farm equipment, and the Kawasaki traffic are all going to be congested." He also encouraged the Board to look at traffic projections (Exhibit G).

Hudkins said the Comprehensive Plan calls for continued study of Wildrose Lane and said the Board was concerned that Public Works had gone directly to the Planning Department to ask for a change. He said the County Board alone has authority to close a county road and said that is the only reason for the Board's involvement. Hudkins said the Board has never opposed looking at other alternatives and said a viaduct looked to be a possibility, although the study said it was not feasible at this time. He asked Figard to provide the Board with a projection of growth for the Highlands Subdivision.

Figard said Public Works followed the appropriate process to request an amendment.

Workman said he believes the Board's letter was "unfortunate" and was only intended to provide historical information. He asked whether Union Pacific will deny permission to cross at that point if there is continued delay.

Heier clarified that he wrote the letter at the direction of the Board.

Susan Grabler, Union Pacific Railroad, said the railroad supports one crossing and believes "the crossing should be located somewhere in between of where they want to put it now and Wildrose (Lane) and consolidate Wildrose (Lane) into one roadway."

Heier asked whether that has been stated before.

Grabler said yes, many times. She said Union Pacific does not object to Fletcher Avenue being extended, rather it is the location that is the concern. Grabler noted that the railroad has "switching moves" at the location proposed for Fletcher Avenue and said "the farther we get that away from the end of the yard the better off we are".

In response to a question from Stevens, Grabler said Union Pacific supports the formula used by Nebraska Department of Roads to determine when a grade separated crossing is needed. She said switching moves would increase movements over the crossing and said the formula would need to take that into consideration.

Stevens asked whether the City Engineer's projection of 2 to 4 trains per day for the next 25 years is valid.

Grabler said it is.

Stevens asked whether Union Pacific would object to a grade separated crossing at the proposed location.

Grabler said "It is the safest crossing you can build." She referred to an aerial map (Exhibit H) and pointed out that there is a switch going into Kawasaki Motors. She said that means there will be a crossing over West 27th Street. Grabler said if the new road has to be at-grade, Union Pacific would prefer that it be north of the switch, between Kawasaki and Wildrose Lane where it is transient track and there is level grade. She suggested further study to see whether that is feasible.

In response to a question from Workman, Grabler said she is certain that switching activity will be an issue at the proposed crossing.

Hudkins presented a map that shows Wildrose Map relocated to the north (Exhibit I) and asked Grabler's opinion.

Grabler said trains pick up speed as they move to the north, so severity of impact would increase with this proposal.

Kerry Eagan, Chief Administrative Officer, asked whether there would be sufficient room to duplicate the roundabout and "stacking" of cars if Wildrose Lane is located between its current location and Fletcher Avenue.

Grabler said there would need to be a left turn or "stacking" lane.

Richard Grundman, Kawasaki Motors Manufacturing Corporation, said additional access to the plant is a priority for his company and stressed the need to complete Northwest 27th and Fletcher Avenue over to Northwest 20th Street by this fall.

Hudkins asked whether closure of Wildrose Lane is a priority for Kawasaki.

Grundman said there is time to work on that issue and to look at alternatives.

Heier asked whether Kawasaki objects to the plan presented by Union Pacific.

Larry Younger, Kawasaki Motors Manufacturing Corporation, said he did not foresee a problem with going north with the road.

In response to a question from Heier, Don Thomas, County Engineer, said his department eliminated the option to relocate Wildrose Lane halfway between its current location and Fletcher Avenue because it would require relocation of the substation.

Marvin Krout, Planning Director, said communication needs to be improved and said, in retrospect, a briefing by Planning Staff would have been appropriate. He said the engineers need to be the ones talking to Union Pacific and Kawasaki, rather than the Board "substituting for them at the table". Krout added that "everybody agrees that the current Wildrose Lane is not the solution for the future."

Workman asked Grabler whether Union Pacific would be willing to remove its switch yards if there is a decision to construct an overpass.

Grabler said the switch yards were relocated two years ago and said "that would be a waste of money". She also noted that west end of the proposed extension of Fletcher Avenue is next to a Burlington Northern/Santa Fe Railroad crossing and would warrant a traffic signal.

Also present were: Mike Brienzo and Mike DeKalb, Planning Department; Larry Worrell, County Surveyor; and Karen Cook, citizen.

7 COMMISSION FOR ACCREDITATION OF REHABILITATION FACILITIES (CARF) CONTRACT - Dean Settle, Community Mental Health Center (CMHC) Director; Gary Lacey, County Attorney; Mike Thew, Chief Deputy County Attorney

Dean Settle, Community Mental Health Center (CMHC) Director, said the Commission for Accreditation for Rehabilitation Facilities (CARF) has rejected the County Attorney's request for changes in the CARF accreditation application (see agenda packet). He said no governmental entity has ever questioned CARF's letter of intent to do an accreditation site survey and said he believes this is "paranoid behavior" on the part of the County.

In response to a question from Hudkins, Settle said accreditation is mandated quality assurance and said accreditation through CARF is significantly less than accreditation through the Joint Commission.

Mike Thew, Chief Deputy County Attorney, said he doubts CARF's claim that it has never been asked to modify its agreement and said the requested language is standard language that is requested in every agreement that the County signs, noting CARF has similar provisions in its form agreement. Thew said "There is nothing that we've asked them to put in this contract that is the least bit unreasonable and most of it is required by some sort of state or federal legal provisions". He also stated that "it is not the function of county government to be user friendly, it is the function of county government to guard the taxpayers' dollars" and said his office can not advise the Board to sign the contract in its present form.

Settle said CARF is insured beyond the levels requested and has already signed a business associates agreement to cover Health Insurance Portability & Accountability Act (HIPAA) requirements.

Settle was asked to provide a copy of the signed business associate agreement.

MOTION: Hudkins moved and Stevens seconded to direct the County Attorney's Office to draft a contract that reflects the County's protections and point of view and to submit it to the Commission for Accreditation for Rehabilitation Facilities (CARF). Hudkins, Stevens, Workman and Heier voted aye. Motion carried.

8 TAX REFUND POLICY - Norm Agena, County Assessor/Register of Deeds; Scott Gaines, Chief Administrative Deputy Assessor/Register of Deeds; and Mike Thew, Chief Deputy County Attorney

Norm Agena, County Assessor/Register of Deeds, suggested establishment of a policy to address real and personal property refund requests, as the current procedure circumvents the property valuation protest process. He recommended that refunds be limited to the current or coming year, depending on when the error is reported.

Stevens asked whether there is anything wrong with a adopting a policy that permits a "professional guesstimate" of the change in value.

Mike Thew, Chief Deputy County Attorney, said that is a policy decision for the Board.

Agena said it is difficult to recreate the sales data used when the value was established.

Stevens suggested that a disclaimer be placed on building permit applications indicating an assumption that work will be completed.

Agena explained that few hinge on the building permit issue.

9 POTENTIAL LITIGATION - Doug Cyr, Deputy County Attorney

MOTION: Hudkins moved and Stevens seconded to enter Executive Session at 10:47 a.m. for discussion of potential litigation. Hudkins, Stevens, Workman and Heier voted aye. Motion carried.

MOTION: Workman moved and Hudkins seconded to exit Executive Session at 11:06 a.m. Hudkins, Stevens, Workman and Heier voted aye. Motion carried.

10 STATE OF NEBRASKA'S PROPOSED MEDICAID REIMBURSEMENT POLICY - Larry Van Hunnik, Lancaster Manor Administrator; Dave Kroeker, Budget and Fiscal Officer

Larry Van Hunnik, Lancaster Manor Administrator, said the Nebraska Department of Health and Human Services (HHS) has informally announced a new rate system that will take effect August 1, 2003, changing allowable cost to below 2000 costs and a reducing current reimbursement levels by 14.5% (Exhibit J). He said the State projects that Lancaster Manor will receive \$1.8 million less for the next fiscal year and recommended creation of a Contingency Fund to address this loss.

MOTION: Hudkins moved and Workman seconded to 1) Direct Larry Van Hunnik, Lancaster Manor Administrator, and Kerry Eagan, Chief Administrative Officer, to draft a letter to Governor Johanns and the Nebraska Department of Health and Human Services (HHS) protesting the rate proposal, with copies to Lancaster County State Senators; and 2) Authorize signature by the Chair. Hudkins, Stevens, Workman and Heier voted aye. Motion carried.

11 POSITION DESCRIPTION FOR DIRECTOR OF COMMUNITY CORRECTIONS (ALTERNATIVES TO INCARCERATION) - Georgia Glass, Personnel Director

Georgia Glass, Personnel Director, said the Interview Committee has completed interviews for the Director of Alternatives to Incarceration position and recommends that the position be offered to Kim Etherton.

MOTION: Hudkins moved and Workman seconded to offer Kim Etherton the position at a starting salary of \$58,000, with a performance review in six months.

The Board indicated that there will be no salary adjustment in September when adjustments to directors' salaries are traditionally made.

Stevens said he supports a higher starting salary.

ON CALL: Hudkins, Workman and Heier voted aye. Stevens voted no. Motion carried.

MOTION: Workman moved and Hudkins seconded to give the position the title of Director of Community Corrections. Hudkins, Stevens, Workman, Heier voted aye. Motion carried.

12 ACTION ITEMS

A. Set Public Hearing for Additional Appropriations

MOTION: Workman moved and Hudkins seconded to set June 10, 2003 as the public hearing date. Hudkins, Stevens, Workman and Heier voted aye. Motion carried.

B. Ratification of Don Killeen's (County Property Manager) Signature on Aquila, Inc., Business Energy Options Acceptance Agreement

MOTION: Stevens moved and Hudkins seconded to ratify signature by Don Killeen, County Property Manager, on the Aquila, Inc., Business Energy Options Acceptance Agreement. Hudkins, Stevens, Workman and Heier voted aye. Motion carried.

13 ADMINISTRATIVE OFFICER REPORT

A. Update on Duke's Prosecution

Item deferred one week.

- B. Letter from Court Appointed Special Advocates (CASA) Regarding County Funding

Board consensus was to schedule a presentation on a future meeting agenda.

- C. Renewal of Dead Animal Removal Contract

The Board scheduled the item on the May 20, 2003 Board of Commissioners Meeting agenda.

- D. Set-Backs for Gas And Anhydrous Ammonia Lines

Eagan distributed a memorandum from Scott Holmes, Lincoln-Lancaster County Health Department Environmental Health Division Chief, regarding pipeline setbacks (Exhibit K).

Board consensus was to schedule discussion with representatives of the Lincoln-Lancaster County Health Department, Building & Safety Department, County Attorney's Office, County Engineering and Planning Department.

- E. Pension Update

Eagan gave a status report on negotiations with Nationwide Retirement Solutions (NRS) and said a written proposal will be presented at the May 22, 2003 Staff Meeting.

Eagan also reported that Ron Busch, Personnel Services Director for Lancaster Manor, would like to serve on the Pension Review Committee.

Board consensus was to add Busch to the committee.

- F. Election Commissioner Salary

Eagan distributed a copy of County Resolution 99-1266 which addresses setting the salaries of the election commissioner and chief deputy election commissioner (Exhibit L).

Board consensus was to defer the matter one week, at which time additional information on salaries will be presented.

- G. Planning Commission Appointment (Sandra Washington)

Hudkins said he would like to see additional County representation on the Planning Commission.

Heier requested additional candidates.

Board consensus was to schedule additional discussion on the May 22, 2003 Staff Meeting agenda.

- H. Microcomputer Purchase for Community Emergency Response Training (CERT) (C#2003-149, \$13,229.98 for Three (3) Laptop Computers; \$500 Installation Fee)

Stevens requested an explanation of the difference between the purchase price and cost (see agenda packet).

- I. Unclaimed Funds (\$1,881.86)

Terry Adams, Deputy County Treasurer, appeared and reported an offer from American Property Locators, Inc. of Edmond, Oklahoma to try to recover \$1,881.86 in unclaimed funds it believes belongs to Lancaster County for a split of the potential recovery (67% for Lancaster County and 33% for American Property Locators, Inc.). He said his office has verified that the funds are not held by the State Treasurer.

MOTION: Hudkins moved and Stevens seconded to have the County Attorney's Office review the offer and schedule the agreement on the Board of Commissioners Meeting agenda. Hudkins, Stevens, Workman and Heier voted aye. Motion carried.

14 ADJOURNMENT

MOTION: Workman moved and Stevens seconded to adjourn the meeting at 11:55 a.m. Hudkins, Stevens, Workman and Heier voted aye. Motion carried.

Bruce Medcalf
County Clerk